

transfer to the Northern District of California because the relevant witnesses and documents reside in that district as opposed to the Eastern District of Texas. Apple's position has not changed.

Through this filing, Apple also seeks to correct some misrepresentations in MedioStream's opposition relating to Apple. First, as Apple's prior declarations make clear, all Apple products implicated in this matter are researched, designed, developed, and tested in Cupertino, California. (*See* Amended Declaration of Kirk Paulsen in Support of Motion of Acer America Corporation, Apple Inc., Asus Computer International Inc., Gateway, Inc., and CyberLink.com Corp. to Transfer Venue Pursuant to 28 U.S.C. § 1404, ¶ 3, *MedioStream, Inc. v. Acer America Corp. et al.*, 2:07-cv-376 (CE), Docket No. 74.) Further, all decisions regarding marketing, sales and pricing of the allegedly infringing products occur predominately in Cupertino, California. (*Id.* ¶ 4.) And, contrary to MedioStream's assertion, all relevant witnesses from Apple reside in or near Cupertino, California. (*Id.* ¶ 5.) Importantly, no Apple relevant witnesses or documents are located in the Eastern District of Texas. (*Id.*)

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Respectfully submitted,

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CERTIFICATE OF SERVICE

The undersigned certifies that the foregoing document was filed electronically in compliance with Local Rule CV-5(a). As such, the DEFENDANT APPLE INC.'S STATEMENT OF NONOPPOSITION TO DEFENDANTS ACER AMERICA CORP., ASUS COMPUTER INTERNATIONAL INC., CYBERLINK.COM CORP., DELL INC., GATEWAY INC., MICROSOFT CORP., NERO AG, NERO, INC., SONIC SOLUTIONS, SONY CORP., AND SONY ELECTRONICS INC.'S MOTION FOR RECONSIDERATION OF ORDER DENYING TRANSFER TO THE NORTHERN DISTRICT OF CALIFORNIA was served on all counsel who are deemed to have consented to electronic service. Local Rule CV-5(a)(3)(A). Pursuant to Fed. R. Civ. P. 5(d) and Local Rule CV-5(d) and (e), all other counsel of record not deemed to have consented to electronic service were served with a true and correct copy of the foregoing by email and/or fax, on this the 29th of January, 2010.

/S/Mark. C. Scarsi

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